

Maryland CINA, related TPR and Adoption matters

Best Practices Manual



**Foster Care Court Improvement Project
Department of Family Administration
Administrative Office of the Courts
February 2007**

Maryland Foster Care Court Improvement Project Best Practices Manual Advisory Committees

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The Foster Care Court Improvement Project (FCCIP) is a federal grant-based project directed to improve how the court system handles its foster care cases. In addition to the members of the Foster Care Court Improvement Implementation Committee and Planning Committee we would like to give special thanks to Chief Judge Robert Bell, Frank Broccolina, the Conference of Circuit Judges, the Representation, Practice and Procedure Subcommittee, the Training Subcommittee, judges, masters, attorneys, the permanency planning liaisons, social workers and consultants throughout the State who provided feedback on this manual.

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Introduction

In 2004, the progress of the Foster Care Court Improvement Project (FCCIP) was evaluated by the American Bar Association (ABA). Simultaneously, the State of Maryland's entire child welfare system, including the Court and the State Child Welfare Agency, was examined extensively through the Federal Child and Family Services Review (CFSR). As a result, the charge to both the Court and the State Agency was to assess how the child abuse and neglect cases were currently being processed; to develop a plan of action to correct the deficiencies preventing timely achievement of permanency for children and families; and to implement that plan.

As such, the FCCIP is publishing a best practices manual in an effort to create an effective tool to assist the courts in meeting the demands of processing CINA, related TPR and Adoption matters. The impetus for the development and the use of best practice standards across the country in child abuse and neglect cases evolves from the realization that the mechanism of how cases are handled and processed ultimately impacts the outcomes for children and families, specifically child safety, permanency and well-being. These standards are designed to assist courts in the facilitation of improved court practices that are not only integral to the overall outcome of a case, but have made an impact for other jurisdictions, locally and nationally, on the courts' ability to effectively meet daily demands.

As previously mentioned, the Federal CFSR process reviewed the Maryland Court system. The CFSR looked at how outcomes in the areas of safety, permanency, and well-being were being met for children and families in Maryland. Additionally, the process evaluated seven systemic factors affecting Maryland's ability to achieve positive results for children and families. The systemic factors reviewed were the State's Information System, Case Review System, Quality Assurance System, Staff Training, Service Array, Responsiveness to the Community, and Foster Parent/Adoptive Parent Recruitment & Retention. For Maryland, the CFSR results were yet another indicator for a need for change in Maryland. The court-related findings were primarily related to *Permanency Outcome 1* and under one of the systemic factors, the *Case Review System*.¹

The Maryland court practices that were noted in the CFSR Final Report as barriers to achieving timely and appropriate permanency goals are highlighted below.

Areas in Permanency Outcomes needing improvement:

(Item #7): Permanency Goal for the Child

- The stated permanency goal in many reviewed cases was assessed as not appropriate in light of the child's needs and the circumstances of the cases;
- Significant delays in establishing the permanency goals;
- Court practices appear to be a key barrier to timely and appropriate permanency goals;
- Maryland courts appear to emphasize keeping reunification goals even when the prognosis for reunification is very low and the local department has recommended a change in goals;

¹ Information supporting the CFSR findings and results was based on file reviews and/or feedback from the stakeholders. To view the Maryland CFSR Final Report and learn more about the CFSR process visit the Administration for Children and Families, Children's Bureau website at www.acf.hhs.gov/programs/cb.

(Item #8): Goals of reunification, guardianship, and permanent relative placement

- Court practices of maintaining a goal of reunification even when the prognosis to attaining that goal is very low (e.g., parents exhibit no efforts to comply with service requirements);
- Lack of attention to or awareness of the strategies necessary to achieve specific goals, particularly permanent placement with relatives and guardianship.

(Item #9): Adoption

- Delays in the adoption process were often due to a lengthy TPR appeals process;
- The National Resource Center on Special Needs Adoption (NRCSNA) also noted delays by attorneys in filing TPR and by Courts in the scheduling TPR hearings as barriers to achieving adoptions included:
 - ~ Delays in scheduling TPR hearings;
 - ~ The granting of continuances in many cases;
 - ~ A common court practice of extending the goal of reunification for long periods of time even when the case prognosis is low.

Systemic Areas needing improvement:

Case Review System

Item 27: Permanency hearings are not being held timely due to frequent court continuances requested by child's counsel or parents' counsel and also due to DHR caseworkers being unprepared for court hearings.

Item 28: The following findings were noted to achieving TPR in a timely manner:

- Frequent court continuances;
- A lengthy TPR appeals process;
- A lack of sufficient legal and judicial personnel;
- Requirement that TPR must be granted for both parents at the same time;

Item 29: Provides a process for foster parents, pre-adoptive parents, and relative caregivers to be notified of, and have an opportunity to be heard in any review hearing.

- Foster parents are not consistently notified of hearings and reviews or given an opportunity to have input into the court hearings;
- Many judges will not allow foster parents in their courts and many others will not allow them to speak during the proceedings.

The Best Practices Manual is intended to offer guidelines to court procedure (*addressing continuances, one judge, one family, consistent handling of CINA/TPR cases*) and in the facilitation of the achievement of permanency goals (*by the early identification of parents, monitoring appropriate permanency plans, etc.*)

Conclusion:

The Foster Care Court Improvement Project encourages courts to make every effort to follow best practices even when resources are lacking. Adopting best practices will allow the courts to meet statutory obligation and improve overall case processing and outcomes for children and families and/or will assist in documenting the resource deficiencies that are preventing the courts from meeting statutory obligations.

ONE JUDGE, ONE FAMILY

BEST PRACTICES STANDARD

Issue:

Despite the complexity and length of time involved with these hearings, CINA and related hearings in many jurisdictions are often assigned to various judicial officers throughout the various stages of the case. This approach often leads to a brief, disconnected interaction with the child and family. Frequent changes in judicial officers can lead to various interpretations of the case at critical points, leading to potential barriers to timely and appropriate permanency goals.

Rule:

The National Council on Juvenile and Family Court Judges' *Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases* outline the benefit of one family-one judge calendaring. This approach permits the same judge/judicial officer to handle the CINA case from filing of the petition through permanency and closure.

Argument:

The benefits of this approach include more informed decision-making, better coordination, and consistency and convenience for families. This approach permits judges and masters:

- to have a sense of ownership in each case.
- to have a long term perspective of the case that is not too dependent on DSS.
- to become thoroughly familiar with the needs of the child and the family, and with the efforts put forward by the agency to address the families' needs.
- to handle family law cases that arise out of or are related to the neglect or abuse case.
- to quickly review files, agency reports, and case plan changes before each hearing.
- to speak with a consistent, single voice conveying expectations to the parties.
- to keep the child's length of time in care at the forefront of his/her decision making.

Consequently, families benefit from this practice because:

- they can become familiar with the judge and/or master and can anticipate a judge's or master's response to their future conduct.
- they don't feel as though a complete stranger, who knows nothing about them, is making decisions about their lives.
- the judge or master is more likely to make decisions consistent with the best interests of the child.

Conclusion:

The NCJFCJ Calendaring for One Family-One Judge approach to managing CINA cases should be adapted to Maryland juvenile court practice to assist with the efficient, comprehensive, consistent management of CINA cases.

EARLY IDENTIFICATION AND LOCATION OF PARENTS

BEST PRACTICES STANDARD

Issue:

The failure to identify parents early in the CINA process creates a major barrier to meeting statutory time guidelines and limits possible reunification options for children placed in the foster care system. Additionally, in Maryland the CFSR noted a “lack of effort to identify absent parents, particularly fathers early in a case” as one of the barriers to the state’s ability to achieve TPR in a timely manner.

Rule:

The requirement that the court seek the identity and current address of each parent is explicitly mandated in Courts and Judicial Proceedings Article § 3-822(a)(1) which state “(a)t each CINA hearing, the court shall inquire into, and make findings of fact on the record as to, the identity and current address of each parent of each child before the court” (emphasis added). The inquiry as to the parent’s identity and location, especially the father’s identity and location, should be made at every hearing from shelter care to termination of parental rights until known.

Argument:

The litany was developed to assist the court in the timely and accurate identification of the respondent’s mother, father and any potential maternal and paternal relative resources. It requires first establishing who the mother and potential father could be and then requests specific information as to current addresses. If a current address is not known, the litany seeks information on additional contacts that may be used to determine the current address. The intention is to encourage the prompt solicitation of information by the court as to the each parent’s identity and current address. The litany is a revision of the original litany drafted and distributed during the October 2002 FCCIP Judicial Conference. It is intended that the litany be completed for every cases and kept in the court file for easy reference.

Additionally, Child Protective Service workers as well as anyone having contact with the respondent’s family can use the litany in order to make timely identification of parents. Stakeholders involved in CINA and TPR cases are encouraged to incorporate this litany into their regular routine in seeking the identity of parents.

Conclusion:

Judges and Masters hearing CINA and TPR related cases should follow the same level of scrutiny in soliciting the identity and current whereabouts of mother and father(s). The identity of the parents should be ascertained early in the CINA cases and efforts to identify and locate absent parents should be made often.

ABSENT PARENT IDENTIFICATION LITANY

STEP 1-PARENT IDENTIFICATION:

QUESTIONS FOR PARENT IN ATTENDANCE

PLEASE USE FORM UNTIL ABSENT PARENT (S) ARE IDENTIFIED & LOCATED

Shelter Care Date ____/____/____ Date Form Completed ____/____/____ At what stage/proceeding of the case was form completed?
--

1. Who are the child's parent(s)?

_____ Father's Name-First, Middle, Last	_____ Father's Aliases	_____ Date of Birth
_____ Mother's Name-First, Middle, Last	_____ Mother's Aliases	_____ Date of Birth

SOCIAL WORKER INQUIRIES:

Have you obtained the parents' social security numbers? yes no

Have you obtained a copy of the child's birth certificate? yes no

Who is listed on the child's birth certificate? _____

Mother

Father

2. Have you ever been to any other court for this child? yes no Where did you go to court? _____
Do you have any paperwork from the court hearing? yes no; Has a paternity affidavit been signed? yes no

3. Were you ever married? yes no; If yes, were you married to the child's father or someone else at the time you got pregnant with this child? _____. (If yes, to "someone else" make further inquiry as to the identity of the spouse.) Who were you married to at the time of this child's birth? _____ This person is a presumed birth father under FL § 5-306 even if mother doesn't think he is the biological father.

4. Does "someone else" claim to be the birth father of this child? yes no _____

STEP 2-PARENT WHEREABOUTS:

SOCIAL WORKER INQUIRIES: What efforts have you made to determine the absent parent's whereabouts? What will be your efforts? When will your efforts be completed?
--

QUESTIONS FOR PARENT AND/OR CHILD IN ATTENDANCE

1. Where is the parent now? _____; What is his/her last known address? _____; Can messages/mail be delivered in c/o someone? _____
What is his/her phone/pager and/or cell number? _____

2. Where does he/she work/address? _____ What is his/her work number? _____ Is he/she or has he/she ever been in the military? yes no; What division _____? What type of work does he/she do? _____

3. When was the last time you saw the father/mother? _____ When did you last talk to him/her? _____

4. Who are the grandparents? _____ Who are some of your other relatives? _____
Are there any godparents? _____ Who else might know how to locate father/mother? _____
Do you know where your relatives live or how to contact them- address or phone number? _____

5. Has the father/mother ever been locked up? yes no If yes, where, when? On probation or parole? yes no; Where?, when? _____

6. Do you know if the father/mother has any other children? yes no; If yes, have you shared the names of the children with the social worker? yes no

POSTPONEMENT/CONTINUANCE POLICY

BEST PRACTICES STANDARD

Issue:

CINA and related hearings should not be subject to unnecessary delays occasioned by continuances granted for trivial reasons, as such delays interfere with the children achieving timely permanent placement. While hearing CINA and related cases requires flexibility, it is important that the cases proceed without undue delay in order to meet the permanency needs of the child in the most efficient and timely fashion.

Rule:

The Court of Appeals of Maryland has promulgated a Revised Administrative Order for Continuances for Conflicting Case Assignments or Legislative Duties that establishes policy regarding priorities between case conflicts for cases scheduled on the same day, requests for continuances and postponements. This Order addresses priorities of cases, but does not address the importance of timely hearings in CINA matters, and does not afford such matters priority. The Foster Care Court Improvement Project's draft Continuance Policy for CINA cases could supplement the Court of Appeals' Order for Continuances if it were amended to recognize the importance of setting a policy of discouraging continuances or postponements of CINA and related cases.

Argument:

The Adoption and Safe Families Act, as well as Maryland law, impose strict timelines for hearing CINA matters. Continuances/postponements interfere with the ability of the courts, and the agencies working through the court process, to comply with those guidelines. Uniform policy for consideration of requests for continuance or postponement of CINA and related cases is needed to avoid unnecessary delay. Such a uniform policy should set forth strict rules which encourage agreed hearing dates, set upon the parties' and counsel's assurances of availability for hearing. The policies should also prohibit postponement of agreed dates for any but the most serious and unavoidable reasons. Maryland's CINA children are not attaining safe, permanent homes in a timely manner. Maryland received a 26.7% rate in the area of permanency in the federal Child and Family Services Review. Some of the issues related to court practices included:

Item 27: Provides a process that ensures that each child in foster care has a permanency hearing no later than 12 months from the date the child entered foster care and no less frequently than 12 months thereafter. The State was found "not to be in substantial conformity". The following findings/observations were made:

- Permanency hearings are not being held timely *due to frequent court continuances* requested by child's counsel or parent's counsel and also due to DHR caseworkers being unprepared for court hearings.

Item 28: Provides a process for termination of parental rights in accordance with the provisions of ASFA. Maryland was found "not to be in substantial conformity" with this item because of the multiple barriers to achieving TPR in a timely manner. Stakeholders noted the following barriers to achieving TPR in a timely manner:

- *Frequent court continuances;*
- A lengthy TPR appeals process;
- A lack of sufficient legal and judicial personnel;
- Requirement that TPR must be granted for both parents at the same time.

Conclusion:

The best practice should be to:

- (1) Adhere to the current Administrative Order; and
- (2) Adopt the FCCIP postponement/continuance policy approved by the Conference of Circuit Judges, or similar policies, to encourage agreed hearing dates and discourage continuances in all but the most compelling circumstances.

IN THE COURT OF APPEALS OF MARYLAND
REVISED ADMINISTRATIVE ORDER FOR CONTINUANCES FOR CONFLICTING
CASE ASSIGNMENTS OR LEGISLATIVE DUTIES

WHEREAS, in 1972, an informal policy as to conflicts between case assignments in trial courts was published in the Daily Record following consideration by the Maryland Judicial Conference and then Conference of Circuit Administrative Judges and consultation with judges of the United States District Court for the District of Maryland; and

WHEREAS, this policy evolved into a uniform Statewide policy formalized by Administrative Orders issued on October 21, 1977, June 2, 1978, October 9, 1980, and December 30, 1980; and

WHEREAS, at a meeting on March 14, 1995, the Executive Committee of the Maryland Judicial Conference resolved that, given the lapse of time since promulgation, the policy should be reviewed, revised to incorporate statutory requirements such as legislative postponements, and reissued to all Maryland Judges, to bar associations for dissemination to their members, and to others as appropriate; and

WHEREAS, it is appropriate to encompass appellate courts as well;

NOW, THEREFORE, I, Robert C. Murphy, Chief Judge of the Court of Appeals and administrative head of the Judicial Branch, pursuant to the authority conferred by Article IV, § 18 of the Constitution, do hereby order this 26th day of April, 1995, that the procedures for the resolution of conflicts in case assignment among appellate and trial courts in the State, as adopted by Administrative Orders of June 2, 1978, October 9, 1980, and December 30, 1980, are amended, effective May 15, 1995, to read as follows:

1. PURPOSE OF ADMINISTRATIVE ORDER) CERTAIN CONTINUANCES PROHIBITED.

This Administrative Order establishes policy regarding priorities between cases assigned for argument, hearing, or trial in one or more appellate or trial courts in the State on the same date. When there is a conflict in assignment, a continuance, postponement, or change in schedule may be made only in accordance with this Administrative Order.

This Administrative Order also states policy regarding continuances for legislative personnel and members of administrative agencies.

2. RESPONSIBILITIES OF COUNSEL.

- a. When consulted as to the availability of dates for trial, counsel has the responsibility of assuring the absence of conflicting assignments on any date that counsel indicates is available for trial.
- b. If counsel accepts employment in a case in which a date or time for argument, hearing, or trial has already been set after counsel has been notified of a conflicting assignment for the same date or time, counsel should not expect to be granted a continuance.

c. If a conflict in assignment dates develops after representation has been accepted, counsel shall make every effort to obtain the presence of a partner or associate to act in one of the cases before a continuance is requested. Obviously, this provision is subject to obligations counsel may have to the client. However, a request for continuance because of conflicting cases should include a statement that it is not practical for a partner or associate to handle one of the conflicting cases.

3. PUBLICLY EMPLOYED LAWYERS.

A lawyer who holds public office or employment as an attorney (e.g., State's Attorney, Assistant State's Attorney, Public Defender, District Public Defender, County Attorney, or City Solicitor) and who is permitted to engage also in the private practice of law may not be granted a postponement or continuance of a case in which the lawyer appears in a public capacity, if there is an assignment conflict between that case and one in which the lawyer appears in a private capacity, except under the most extraordinary circumstances.

4. LEGISLATIVE PERSONNEL.

A continuance must be granted to an attorney of record who is a member or desk officer of the General Assembly exercising the privilege under Courts and Judicial Proceedings Article, § 6-402. In accepting employment, however, such attorney should consider the inconvenience to the public, bar and judicial system produced by excessive continuances.

5. RESPONSIBILITY OF THE COURT WHEN A CONTINUANCE IS REQUESTED AND GRANTED BECAUSE OF CONFLICTING CASE ASSIGNMENTS.

a. In a case in which counsel has accepted employment which creates a conflict in assignments, a judge may, in the judge's discretion and under extraordinary circumstances, grant a continuance. In the exercise of that discretion, the judge shall first assure that all parties, witnesses, and counsel in the case can be notified of the continuance sufficiently in advance of the trial date to avoid undue inconvenience; that the case has not been continued an unreasonable number of times prior thereto; and that the continuance would not otherwise impede the proper administration of justice.

b. It is the responsibility of the court to fix a new date for the continued or postponed case when a continuance or postponement is granted.

6. PRIORITIES AS BETWEEN TRIAL COURTS.

With respect to conflicting hearings or trial dates between a circuit court for a county or Baltimore City, either division of the United States District Court for the District of Maryland, the United States Bankruptcy Court for the District of Maryland, or the Maryland District Court, priority shall be given to the case in accordance with the earliest date on which assignment for hearing or trial was made, except that, regardless of the date the assignment for hearing or trial was made, (1) if the provisions of the Federal Speedy Trial Act so require, priority shall be given to a criminal proceeding in the United States District Court; and (2) if the provisions of Maryland Rule 4-271 and/or Article 27, § 591 of the Code so require, priority shall be given to a criminal proceeding in a Maryland court, over a civil proceeding in the United States District Court or the United States Bankruptcy Court for the District of Maryland.

7. PRIORITIES BETWEEN APPELLATE AND TRIAL COURTS.

With respect to conflicting proceedings before the Court of Appeals, the Court of Special Appeals, or the 4th Circuit Court of Appeals and a trial court, the appellate proceeding shall be given priority over the trial court proceeding unless otherwise agreed by the appellate and trial courts as to particular proceedings.

8. CONFLICTS BETWEEN TRIAL COURTS AND ADMINISTRATIVE AGENCIES.

If counsel is a member of an administrative agency which has scheduled a meeting or hearing conflicting with an appellate or trial court proceeding in which the lawyer-member of the agency is also involved, the court proceeding has priority and the pendency of the administrative hearing is not a basis for granting a continuance.

Robert C. Murphy
Chief Judge

Filed:

Alexander L. Cummings
Clerk
Court of Appeals

FCCIP POSTPONEMENT/CONTINUANCE POLICY

Preamble

The purpose of this policy is to avoid any delay in the processing of CINA and related TPR and Adoption cases so that children can achieve a timely, permanent placement consistent with the children's best interest. The Adoption and Safe Families Act along with corresponding state laws require that CINA matters be heard promptly and under strict time frames. The only way to systematically comply with these strict time frames is to institute and abide by a policy that promotes the idea of no continuance and/or postponement unless extraordinary circumstances and justice requires such action.

Policy

The scheduling of CINA and related TPR and Adoption matters must be done in accordance with the relevant time laws. Thus, it is critically important that matters are scheduled by the court in consultation with the parties and their counsel. Additionally, all Motions for Postponements and Continuances should include the positions of all the parties and their counsel.

The Judicial Council has adopted the following definition for postponement: a proceeding that was not held and is being rescheduled. As such, once a matter has been set on the court's docket, any delay in that matter being heard on the day(s) and time(s) set is a postponement. This includes matters that are moved in advance of the scheduled day and time. If a postponement occurs in advance of the original scheduled date and time the matter should be rescheduled as soon as possible.

The Judicial Council has adopted the following definition for continuance: a proceeding that has begun and is extended for additional day(s). The matter could be begun and unable to conclude on the scheduled day(s) and time(s). For example, a matter scheduled for one day that must be re-scheduled to complete the matter.

Likewise, if a continuance occurs during the proceeding, the matter should be rescheduled for the next day the court sits and remain on the docket day to day until concluded. The only exception would be a case that is continued pending the receipt of additional evidence. In such a case, the case should be rescheduled as soon as possible.

In an effort to encourage agreed upon hearing dates and to discourage postponements and continuances in all but the most compelling circumstances:

1. Each Circuit Court County Administrative Judge will be responsible for developing, implementing, and enforcing a Postponement and Continuance Policy for his/her respective jurisdiction.
2. The Policy should take into account the importance of timely hearings in CINA and related matters.
3. The Policy should discourage or prohibit postponements or continuances of agreed dates for any but the most serious and unavoidable reasons.
4. The Policy should be submitted to the Administrative Office of the Courts.

TIMELY AND APPROPRIATE PERMANENCY GOALS FOR OLDER YOUTH BEST PRACTICES STANDARD

Issue:

Achieving timely permanence for youth 10 years of age and older continues to be a challenge in Maryland. Equally challenging, is the Courts' ability to monitor their educational progress, future academic/vocational goals, and physical and mental health needs. Another important aspect of permanence for older youth is ensuring that age appropriate services promote enduring and supportive linkages to family and community.

Rule:

The standard permanency plans are the same for all children in order of preference: (1) reunification with a parent; (2) placement with a relative for custody and guardianship/adoption; (3) placement with a non-relative for custody and guardianship/adoption; and (4) another planned permanent living arrangement "APPLA," which should be the last resort and each child's situation must be addressed individually.

Argument:

The 10 – 16 year old group is an oft-overlooked group. There may no longer be an expectation of reunification with a parent, relative caregivers may be available but unwilling to provide a permanent home for the child without ongoing financial and service supports from DSS, and the identification of an adoptive resource may be unlikely. At age 10, Maryland's children must consent to their own adoption. If a child is unsure, a petition should be filed. Sometimes the child will not consent because of their hope to be reunited with the parent. Engaging a child in embracing the opportunity for adoption may be an extended clinical process rather than a simple "yes" or "no" matter. If a child is firm in the position that he or she will not consent, it is unnecessary to proceed with a Termination of Parental Rights (TPR) Petition. However, if the child has been in care 15 out of the last 22 months, there must be documentation for why a TPR petition is not filed.

The older adolescent should attend any permanency hearing or any hearing related to a youth's transition from foster care to independent living, if the youth has reached the age of 16. Also, the youth should be consulted, in an age appropriate manner, regarding any proposed permanency or transitional plan.

There are many benefits available to young people who remain in care through young adulthood, particularly to support higher education or post-high school vocational training. However, it is important to be alert to the potential for enabling *dependence* instead of promoting *independence*. Young people discharged from out-of-home placement after age 18 who identify a need for post-discharge services are eligible for aftercare services up to age 21. Aftercare services offer case management and financial support for shelter and other self-care needs.

According to the *Code of Maryland Regulations*, a child in out-of-home placement is eligible to remain in out-of-home placement until the end of the month in which the child becomes 18 years old, except that a child 18 to 21 years old may remain in out-of-home placement so long as the child is:

- (1) In school;
- (2) In vocational or job training and:
 - (a) In transition to independent living, and
 - (b) Has a service agreement with the local department designed to enable the child to achieve independence; or

(3) Disabled and has special needs which can only be met through the Out-of-Home Placement Program. Furthermore, to be eligible for independent living preparation services, a youth shall be:

- (1) 14 years old or older, committed to a local department, and likely to remain in foster care until age 18;
- (2) Between 18 and 21 years old and in school, employed, or disabled; or
- (3) Between 18 and 21 years old and discharged from out-of-home placement as a result of attaining the age of 18. (NOTE: This references aftercare services *post-discharge* from out-of-home placement and rescission of commitment to the Agency.)

While for many, case direction may emphasize the young person's growing autonomy, it is vitally important not to overlook an adolescent's need for belonging and family. When a child has been stable in a resource or relative family, it is never too late to re-visit the question of adoption as the most appropriate outcome for a minor child. Along with eligibility for a special needs post-adoption subsidy and medical assistance, children adopted after age 14 are eligible for tuition reimbursement.

As the child matures, it may be important to periodically re-visit relationships with parents and/or relatives as well as others the child may consider to be kin because their circumstances may have changed making them a resource for the child. A parent may be rehabilitated after long-term substance abuse treatment, or perhaps a period of incarceration. Relatives, including siblings, who may not have been able to provide care at an earlier time may now be sufficiently mature and have the resources to consider becoming a caregiver for the child. The local department should provide continuous updates on the status of relatives. Appointment of a Court Appointed Special Advocate, "CASA", is one way to mitigate some of the isolation for children whose adoptions dissolved, or children who have grown up in care and moved from placement to placement, forming few long-lasting ties.

For children who may be considered disabled, application for Supplementary Security Income (SSI) needs to be made long in advance of emancipation from the foster care system. An application is ordinarily made by the educational system to the Developmental Disabilities Administration (DDA) and is particularly important for severely disabled children who may need continued care after age 21. This is a lengthy process and the court should inquire about the status with the social worker and the child's attorney at each review and permanency planning hearing.

Conclusion:

Maryland best practices should consist of the following:

1. Identify cases that fall within this age group in your docket. Assess the current situation based on the past history.
2. Review DSS documentation of progress towards an appropriate permanency plan; when the plan is APPLA, be sure that the plan is inclusive of relationships with family members (including siblings in and out of care), prior foster caregivers, and other potential supports. Encourage long-term caregivers to embrace the opportunity for permanence through adoption or custody/guardianship. *See APPLA 12 Questions below.*
3. For children over the age of 14, anticipate the delivery of independent living preparation services. These may include both individual and group services, and may include instruction as well as opportunities for practice. Given the pivotal importance of academic achievement, attend to educational placement and the efforts made to insure appropriate placement and remediation when indicated. At the same time, do not overlook the potential for reunification, adoption, or custody/guardianship.
4. Support the establishment and achievement of a variety of goals that will boost the likelihood of a successful transition to a satisfying and productive adult life. To preserve a young adult's continued

eligibility for out-of-home placement services, strongly encourage the child's continued enrollment in an educational or vocational program. Be cautious about enabling continued dependence by failing to set appropriate expectations and limits for the young adult.

5. While children may be in care long-term, this does not relieve parents of all responsibilities for their child. Do not overlook the opportunity for ongoing participation through a child support order.
6. Require that DSS provide twice yearly documentation of the efforts made to finalize the permanency plan, the life skills preparation services delivered to youth 14 and up, the engagement of significant adults, and the youth's response to services.
7. It is critical to remember that APPLA is the last resort. The potential for successful reunification should not be ruled out in favor of the financial benefits of remaining in foster care.

The Maryland Department of Social Services has established the following questions that the caseworker should be above to address when APPLA is chosen as a permanency plan:

1. *Describe the timely assessment conducted and the relevant services provided when the child first entered out-of-home care?*
2. *What other permanency options were considered and why were they ruled out?*
3. *What efforts were made to identify and recruit a permanency placement of the child?*
4. *Was the child asked about his/her preferences for a permanency placement?*
5. *What is the compelling reason why a more preferred permanency plan was not selected?*
6. *Why is this proposed plan a valid "Permanency Living Arrangement"?*
7. *Is there a need to recommend that certain support structures be put in place?*
8. *Does the child require any type of special needs and what services are currently being provided?*
9. *What efforts were made to assess the safety, quality, and stability of this proposed APPLA?*
10. *Are there support systems available to assist the youth in the transition to self-sufficiency?*
11. *Describe the adults and/or peers that provide meaningful support? (Include name, relationship and nature of support.)*
12. *What supportive services (i.e. supervised living arrangements, housing, medical, etc.) to be required after out-of-home services are terminated?*

HEALTHY CHILD CHECKLIST

BEST PRACTICES STANDARD

Issue:

In Maryland's CINA and related TPR matters, it is common knowledge that the court plays a pivotal role in ensuring the safety of foster care children, and that timely permanency is achieved for children and families. Monitoring the well-being of foster care children is another equally important aspect of judicial oversight.

Children who become involved in the foster care system typically have unmet medical, dental, and mental health needs. Ensuring that foster care children receive consistent and regular check-ups is one of the many responsibilities placed on the child welfare system, especially for the court, the Department of Social Services, and the child's attorney. Children in the foster care system are entitled to medical, dental, and mental health services just as children not involved in the foster care.

Rule:

The court has an increasing role in providing oversight in CINA and related TPR matters, including monitoring the well-being needs of foster care children. In Maryland, the court must consider the efforts made by the department in meeting a foster child's health, education, safety, and preparation for independence needs. *Courts and Judicial Proceedings Article §3-816.1 (b)(2)(ii)*.

Argument:

Children's medical and mental health conditions that have not been addressed may contribute to family instability or undermine timely permanency. Thus the inquiry into the child's well-being should be made as early as possible in a CINA matter. The *Permanent Judicial Commission on Justice for Children* has developed a booklet *Ensuring the Healthy Development of Foster Children: A Guide for Judges, Advocates and Child Welfare Professionals*.² The Guide is a tool designed to assist in identifying the health needs and gaps in services for foster care children. The Guide includes a checklist to be used regularly in child welfare cases to ensure that a child's health needs are met.

The healthy child checklist is one mechanism that will assist courts in collecting information pertinent to a foster child's medical needs in a systematic manner and also provide the court with information needed to make informed decisions and findings. The checklist is designed to gather the necessary information on the medical history and care maintenance for foster care children. The intention of the checklist is not to turn permanency planning or review hearings into full evaluations of the medical history of children in foster care. The tool is designed to assist courts in making the appropriate inquiries into the health care services provided to children involved in the foster care system.

² New York State Permanent Judicial Commission on Justice for Children (2000). *Ensuring the Healthy Development of Foster Children: A Guide for Judges, Advocates and Child Welfare Professionals*.

Conclusion:

The court plays an important role in monitoring a child's health history in Maryland. The Conference of Circuit Judges has approved the use of the Healthy Child Checklist, which has been modified to follow Maryland practice. The checklist is not only a tool for judges and masters, but can be used by caseworkers and children's attorneys. Courts are strongly encouraged to utilize the Healthy Child Checklist to provide guidance in its efforts to make the necessary inquiries to ensure that foster care children receive appropriate and timely health care.

HEALTHY CHILD CHECKLIST

Case Name: _____ D.O.B. _____ Age: _____

Reporting Case Worker: _____

1. Most Recent Well Child Visit: Applicable: Yes No

Date: _____ Physician's Name: _____

Attached Copy: Yes No

Comments _____

Immunization Records: Applicable: Yes No

Attached Copies: Yes No

Comments _____

Most Recent Hearing and Vision Screening: Applicable: Yes No

Date: _____ Physician's Name: _____

Attached Copy Vision: Yes No

Date Hearing: _____ Physician's Name: _____

Attached Copy Hearing: Yes No

Comments _____

Regular Dental Check-Ups/Services: Applicable: Yes No

Date: _____ Physician's Name: _____

Attached Copy: Yes No

Comments _____

2. Most Recent Screening for Lead Poison (Mandatory)

Date: _____ Physician's Name: _____

Attached Copy: Yes No

Comments _____

3. Screening for Communicable Diseases: Applicable: Yes No

Date: _____ Physician's Name: _____

Attached Copy: Yes No

Comments _____

Developmental Screening: _____

Applicable: Applicable: Yes No

Date: _____ Provider's Name: _____

Attached Copy: Yes No

Comments _____

Mental Health Assessment: Applicable: Yes No

Date: _____ Mental Health Professional's Name: _____

Attached Copy: Yes No

Comments _____

Fetal Alcohol Syndrome Screening: Applicable: Yes No

Date: _____ Physician's Name: _____

Attached Copy: Yes No

Comments _____

Notes: _____

In those instances where the Court feels that more follow up is needed, DSS shall secure the service for the child and results shall be provided to the Court by _____

PROPERLY CONDUCTED HEARINGS BEST PRACTICES STANDARD

Issue:

CINA and related hearings throughout Maryland's juvenile courts are not consistent in content or in practice. There is significant variation with regard to quality of the hearings. Many of the hearings are conducted by proffer, stipulation or with no testimony. While judges and masters made inquiry about reasonable efforts and contrary to the welfare, they often were not detailed or case specific. While hearing CINA and related cases requires flexibility, some uniformity is needed to ensure that the quality of each and every hearing conducted is sufficient and consistent to meet the permanency needs of the child.

Rule:

The National Council of Juvenile and Family Court Judges has developed *Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases*. The *Resource Guidelines* set forth essential elements of properly conducted court hearings and cover all stages of the court process, from the shelter care hearing until the case has ended.

Argument:

Standards for properly conducted hearings in Maryland are needed because of the disparity and inconsistencies among the Maryland courts on how CINA and related cases are processed. Maryland's CINA children are not attaining safe, permanent homes in a timely manner. Maryland received a 26.7% rate in the area of permanency in the federal Child and Family Services Review.

Conclusion:

The NCJFCJ standards of properly conducted hearings are modified to fit Maryland law and procedures. There are standards for each type of CINA and related TPR hearing developed based on Maryland practice. Proposed standards for each hearing type follow over the next several pages.

STANDARDS FOR PROPERLY CONDUCTED HEARINGS

Shelter Care Hearing

(Must be held the next day (after removal) that the circuit court is sitting).

Introductory Remarks

- Call case, including child's name, case number, type of hearing
- Introduction of parties/note who is present
- Explanation of proceeding/Standard of probable cause
- Advisement of rights (right to counsel, change of address, establishment of paternity)
- Notify parents prior to adjudication to advise them of their right to an attorney
- If parents come to the shelter care hearing, give them Advice of Rights form and have them sign it before they leave
- Set date and time of adjudication hearing

Adequacy of Notice and Service of Process Issues

- Address identification and location of parents
- Follow parent litany form (encompasses Maryland statute)

Troubleshooting and Negotiations Between Parties

- Motions
- Address 8 day continuances to allow for retaining counsel
- Address jurisdictional issues
- Address travel arrangements for parents or other possible caregivers

Testimony/evidentiary offerings

- Live testimony
- Proffer
- Stipulation
- Reports

Services Update/Immediate Service/Case Plan

Key Decisions the Court Should Make:

- Contrary to welfare finding:
 - Should the child be returned home immediately or kept in shelter care prior to the adjudication hearing? (i.e., Is continued placement of the child in care warranted?)
 - Make detailed case specific findings
- Reasonable efforts to prevent removal
 - Determine who is present, and review efforts to locate parents
 - Has the agency made reasonable efforts to avoid placement?
 - Are responsible relatives or other responsible adults available?

Required considerations:

____ Extent to which the LDSS has complied with the law, regulations, state or federal court orders or stipulated agreements regarding provision of services;

____ Whether the LDSS has ensured that:

____ a caseworker is promptly assigned and actively responsible for the case at all times;

____ the caseworker's identity has been promptly communicated to the court and the parties; and

____ the caseworker is knowledgeable about the case and has received all pertinent files and information timely.

The caseworker should report child's location and visitation status

Key Components of the Court's Order

If child is placed in shelter care:

Describe who is to have custody and where the child is to be placed

Specify why continuation of the child in the home is contrary to the child's welfare, i.e., not in the child's best interest

Specify whether reasonable efforts have been made to prevent placement, including a brief description of what services, if any, were provided and why placement is necessary or specify if it was an emergency and why

Specify if any of the required considerations was not met by the local DSS

Specify the terms of visitation

Whether or not the child is returned home:

Provide further directions to the parties such as governing parental conduct and agency services to the child and parent agreed upon prior to adjudication

Set date and time of next hearing

Set visitation and conditions

STANDARDS FOR PROPERLY CONDUCTED HEARINGS

Adjudication Hearing

(Must be held within 30 days from child's removal from the home or if child has not been removed, 60 days from service of the CINA petition).

Introductory Remarks

- Call case, including child's name, case number, type of hearing
- Introduction of parties/note who is present
- Explanation of proceeding
- Advisement of rights (right to counsel, change of address, establishment of paternity)
- Notify parents prior to adjudication to advise them of their right to an attorney
- If parents come to the hearing, give them Advice of Rights form and have them sign it before they leave
- Set date and time of next hearing

Adequacy of Notice and Service of Process Issues

- Address identification and location of parties not present
- Schedule hearing or report due within 30 days regarding identification of parents
- Follow parent litany form (encompasses Maryland statute)

Troubleshooting and Negotiations Between Parties

- Motions
- Reports submitted timely
- Discovery
- Rules

Testimony/evidentiary offerings (Rules of evidence apply)

- Live testimony
- Proffer
- Stipulation
- Reports
- Introduction of written evidence

Services Update/Immediate Service/Case Plan

Key Decisions the Court Should Make:

- Determine whether the allegations in the petition have been proven or admitted
- Determine whether reasonable efforts have been made to prevent the need for placement
- Reasonable efforts to prevent removal
 - Determine who is present, and review efforts to locate parents
 - Determine where the child is located
 - Are responsible relatives or other responsible adults available?

Required considerations:

___ Extent to which the LDSS has complied with the law, regulations, state or federal court orders or stipulated agreements regarding provision of services;

___ Whether the LDSS has ensured that:

___ a caseworker is promptly assigned and actively responsible for the case at all times;

___ the caseworker's identity has been promptly communicated to the court and the parties; and

___ the caseworker is knowledgeable about the case and has received all pertinent files and information timely.

- If child is being removed for the first time at this hearing, determine whether it is contrary to the welfare of the child to be returned home.
- If the disposition hearing is held on a separate day the Court should:
 - Determine whether there is good cause shown to continue disposition
 - Determine where the child is to be placed prior to disposition
 - Order further testing or evaluations as needed
 - Ensure that the agency is making diligent search efforts to locate parents and other relatives as caretakers, including relatives outside the area
 - If child is placed outside of the home, set terms for visitation, and other intra-family communication, including both parents and siblings

Issuance of Orders and Scheduling of Next Hearing

Key Components of the Court's Order

- If the allegations in the petition were sustained:
 - Specify whether reasonable efforts have been made to prevent placement, including a brief description of what services, if any, were provided and why placement is necessary
 - Specify whether the Court is proceeding to the Disposition hearing (If so, proceed to Disposition Hearing Standards)
- If the disposition hearing is held on a separate day:
 - Specify the good cause for delaying the disposition hearing
 - Specify who is to have temporary custody and where the child is to be placed
 - Specify terms of visitation of child, both parents, siblings and other relatives, if applicable
- Whether or not the child is returned home:
 - Provide further directions to the parties, such as, governing parental conduct, responsibilities of parents and agency to the child and parent
- Set date and time of next hearing

STANDARDS FOR PROPERLY CONDUCTED HEARINGS

Disposition Hearing

(Must be held on the same day as the adjudication hearing unless good cause is shown to extend it for another 30 days).

Introductory Remarks

- Call case, including child's name, case number, type of hearing
- Introduction of parties/note who is present
- Explanation of proceeding
- Advisement of rights (right to counsel, change of address, possibility of change in permanency plan, including TPR)
- Set date and time of next hearing

Adequacy of Notice and Service of Process Issues

- Address identification and location of parents
- Schedule hearing or report due within 30 days regarding identification of parents
- Follow parent litany form (Encompasses Maryland statute)
- Advise of responsibility to notify court of change of address

Troubleshooting and Negotiations Between Parties

- Motions
- Reports submitted timely (5 days prior to hearing for study/examination, 10 days prior to hearing for
- DSS report)
- Discovery
- Rules

Testimony/evidentiary offerings

- Live testimony
- Proffer
- Stipulation
- Reports
- Introduction of written evidence

Services Update/Immediate Service/Case Plan

Key Decisions the Court Should Make:

- Determine whether the child needs the court's assistance.
Note: Determining whether the child is a CINA is made at the disposition hearing, not the adjudication hearing.
- If so, list reasons
- Determine custody and placement of the child
- Determine whether the agency's proposed case plan reasonably addresses the needs of the child and parents

- Determine whether reasonable efforts have been made to prevent placement of the child into the Department's custody
- Reasonable efforts to prevent removal
 - Determine who is present, and review efforts to locate parents
 - Has the agency made reasonable efforts to avoid placement?
 - Are responsible relatives or other responsible adults available?

Required considerations:

___ Extent to which the LDSS has complied with the law, regulations, state or federal court orders or stipulated agreements regarding provision of services;

___ Whether the LDSS has ensured that:

___ a caseworker is promptly assigned and actively responsible for the case at all times;

___ the caseworker's identity has been promptly communicated to the court and the parties; and

___ the caseworker is knowledgeable about the case and has received all pertinent files and information timely.

- Determine if relatives or other potential caregivers have been contacted about caring for the child

Required considerations before granting custody or guardianship:

___ Any assurance by the LDSS that it will provide funds for necessary support and maintenance for the child;

___ All factors necessary to determine the best interests of the child, including assessing the child's unique needs and preferences, whether the child has a bond with the family, whether the guardian is committed to staying involved with the child through the child's life, etc.; and

___ A report by the LDSS or licensed child placement agency regarding the suitability of the individual to be the guardian of the child

Key Components of the Court's Order

- Specify whether the child is a CINA. If so,
 - Specify who has custody of the child
 - If applicable, specify why continuation of the child in the home would be contrary to the child's welfare
 - Specify the services that are ordered
 - Specify support, visitation terms
 - Specify current case plan/permanency plan for the child (Remember there is a presumption of reunification)
- Set date and time of next hearing

STANDARDS FOR PROPERLY CONDUCTED HEARINGS

Permanency Planning/Permanency Planning Review Hearing

(Initial PP hearing must be held w/in 12 months from time of placement. PP must be reviewed every 6 months).

Introductory Remarks

- Call case, including child's name, case number, type of hearing
- Introduction of parties/note who is present
- Explanation of proceeding
- Advisement of rights (right to counsel, possibility of change in permanency plan)

Adequacy of Notice and Service of Process Issues

- Address identification and location of parents
- Follow parent litany form (Encompasses Maryland statute)
- Schedule 30 day hearing or follow up report regarding parent identification
- Advise of responsibility to notify court of change of address
- Address whether caregivers have been notified of hearing, and if present, advise of opportunity to be heard

Troubleshooting and Negotiations Between Parties

- Motions
- Reports submitted timely (Should be provided by DSS at least 10 days prior to hearing)
- Discovery
- Rules

Testimony/Evidentiary offerings

- Live testimony
- Proffer
- Stipulation
- Reports
- Introduction of written evidence (records)

Services Update/Immediate Service/Case Plan

Key Decisions the Court Should Make:

- Determine whether the parties, caregivers, CASAs and other interested persons are present, and whether caregivers have been notified
- Determine the child's status as to placement, mental and physical health, education, behavior, etc.
- Determine progress of parents to remediate the issues that brought the child into care
- Determine extent of services provided to child and parents
- Determine whether the agency has made reasonable efforts to finalize the current permanency plan
- Determine whether the agency has made reasonable efforts to meet the needs of the child's placement, mental and physical health, education, safety, connectedness to family, neighborhood and preparation for independence

Required considerations:

____ Extent to which the LDSS has complied with the law, regulations, state or federal court orders or stipulated agreements regarding provision of services;

____ Whether the LDSS has ensured that:

____ a caseworker is promptly assigned and actively responsible for the case at all times;

____ the caseworker's identity has been promptly communicated to the court and the parties; and

____ the caseworker is knowledgeable about the case and has received all pertinent files and information timely.

Determine future permanency plan

Key Components of the Court's Order

- Specify permanency plan and reasons for particular plan. This should include timelines for achievement of the plan.
- If applicable, specify compelling reasons for choosing a permanency plan outside of reunification, relative placement or adoption, and document why this plan is in the child's best interest
- Specify whether the agency has made reasonable efforts to finalize the permanency plan and specify the specific efforts that were made or that should have been made
- Specify custody and placement***If review hearing, Court must see child if 16 or over before concluding review hearing***
- Specify visitation with parents, siblings, others
- Set date and time of next hearing

Maryland Properly Conducted Hearings Checklists

Excerpts from the *Resource Guidelines*

National Council of Juvenile and Family Court Judges

STANDARDS FOR PROPERLY CONDUCTED HEARINGS

Termination of Parental Rights Hearing

(Should be held within 180 days from filing of petition. Petition should be filed within 30 days from change of plan to adoption, or within 60 days if department does not agree with court's plan of adoption.)

Introductory Remarks

- Call case, including child's name, case number, type of hearing
- Introduction of parties/note who is present
- Explanation of proceeding/Standard of clear and convincing evidence
- Advisement of rights (right to counsel, establishment of paternity)

Adequacy of Notice and Service of Process Issues

- Motions concerning defects in service

Troubleshooting and Negotiations Between Parties

- Motions
- Reports submitted timely

Testimony/evidentiary offerings (Rules of Evidence Apply)

- Live testimony
- Proffer
- Stipulation
- Reports
- Judicial Notice

Key Decisions the Court Should Make:

- Determine if all parties were properly identified and served
- If voluntary, determine if consents were voluntary and informed
- Determine if termination is in the best interest of the child (Evidence must be clear and convincing)
- Required considerations: (See attached)
- Determine if reasonable efforts were made to finalize the permanency plan

Key Components of the Court's Order

- Specify all persons present and how any absent parent was provided with appropriate notice
- If applicable, specify efforts that were made by the Court to determine whether consent was voluntary/valid
- Specify whether TPR is in the best interest of the child. If so, apply the facts of the case to the statutory factors
- Specify whether the agency made reasonable efforts to finalize the permanency plan
- Specify custody and placement, visitation, if applicable

- Set date and time of next hearing, i.e., guardianship review hearing or CINA review hearing (w/in 180 days)

Maryland Standards for Properly Conducted Hearings
Excerpts from the *Resource Guidelines*
National Council for Juvenile and Family Court Judges

**Attachment to Properly Conducted Hearings/TPR
Termination of Parental Rights Proceedings, Family Law Article
Required Considerations, Section 5-323 (C) and (D)**

(c) A juvenile court need not consider any factor listed in subsection (d) of this section in determining a child's best interests if, after a thorough investigation by a local department, the juvenile court finds that:

(1) the identities of the child's parents are unknown; and

(2) during the 60 days immediately after the child's adjudication as a child in need of assistance, no one has claimed to be the child's parent.

d) Except as provided in subsection (c) of this section, in ruling on a petition for guardianship of a child, a juvenile court shall give primary consideration to the health and safety of the child and consideration to all other factors needed to determine whether terminating a parent's rights is in the child's best interests, including:

(1) (i) all services offered to the parent before the child's placement, whether offered by a local department, another agency, or a professional;

(ii) the extent, nature, and timeliness of services offered by a local department to facilitate reunion of the child and parent; and

(iii) the extent to which a local department and parent have fulfilled their obligations under a social services agreement, if any;

2) the results of the parent's effort to adjust the parent's circumstances, condition, or conduct to make it in the child's best interests for the child to be returned to the parent's home, including:

(i) the extent to which the parent has maintained regular contact with:

1. the child;

2. the local department to which the child is committed; and

3 if feasible, the child's caregiver;

(ii) the parent's contribution to a reasonable part of the child's care and support, if the parent is financially able to do so;

(iii) the existence of a parental disability that makes the parent consistently unable to care for the child's immediate and ongoing physical or psychological needs for long periods of time; and

(iv) whether additional services would be likely to bring about a lasting parental adjustment so that the child could be returned to the parent within an ascertainable time not to exceed 18 months from the date of placement unless the juvenile court makes a specific finding that it is in the child's best interests to extend the time for a specified period;

(3) whether:

(i) the parent has abused or neglected the child or a minor and the seriousness of the abuse or neglect;

(ii) 1. A. on admission to a hospital for the child's delivery, the mother tested positive for a drug as evidenced by a positive toxicology test; or

B. upon the birth of the child, the child tested positive for a drug as evidenced by a positive toxicology test; and

2. the mother refused the level of drug treatment recommended by a qualified addictions specialist, as defined in § 5-1201 of this title, or by a physician or psychologist, as defined in the Health Occupations Article;

(iii) the parent subjected the child to:

1. chronic abuse;

2. chronic and life-threatening neglect;

3. sexual abuse; or

4. torture;

(iv) the parent has been convicted, in any state or any court of the United States, of:

1. a crime of violence against:
 - A. a minor offspring of the parent;
 - B. the child; or
 - C. another parent of the child; or
 2. aiding or abetting, conspiring, or soliciting to commit a crime described in sub item 1 of this item; and
 - (v) the parent has involuntarily lost parental rights to a sibling of the child; and
- (4) (i) the child's emotional ties with and feelings toward the child's parents, the child's siblings, and others who may affect the child's best interests significantly;
- (ii) the child's adjustment to:
1. community;
 2. home;
 3. placement; and
 4. school;
- (iii) the child's feelings about severance of the parent-child relationship; and
- (iv) the likely impact of terminating parental rights on the child's well-being.
- (e) (1) A juvenile court shall consider the evidence under subsection (d)(3)(i) and (ii) of this section as to a continuing or serious act or condition and may waive a local department's obligations for services described in subsection (d)(1) of this section if, after appropriate evaluation of efforts made and services offered, the juvenile court finds by clear and convincing evidence that a waiver is in the child's best interests.
- (2) A juvenile court may waive a local department's obligations for services described in subsection (d)(1) of this section if the juvenile court finds by clear and convincing evidence that one or more of the acts or circumstances listed in subsection (d)(3)(iii), (iv), or (v) of this section exists.
- (3) If a juvenile court waives reunification efforts under § 3-812(d) of the Courts Article, the juvenile court may not consider any factor under subsection (d)(1) of this section.
- (f) If a juvenile court finds that an act or circumstance listed in subsection (d)(3)(iii), (iv), or (v) of this section exists, the juvenile court shall make a specific finding, based on facts in the record, whether return of the child to a parent's custody poses an unacceptable risk to the child's future safety.
- (g) If a parent has consented to guardianship in accordance with § 5-320(a)(1)(iii)1 of this subtitle, the loss of parental rights shall be considered voluntary.

STANDARDS FOR PROPERLY CONDUCTED HEARINGS

Guardianship Review Hearing

(Initial Guardianship Review hearing must be held w/in 6 months from the date of the guardianship order. Subsequent guardianship review hearings are to occur at least every 12 months).

Introductory Remarks

- Call case, including child's name, case number, type of hearing
- Introduction of parties/note who is present
- Explanation of proceeding
- Specify whether former parents have waived their right to notice of the hearings
- Advisement of rights (parent(s) who has not waived right to notice and caregivers have opportunity to be heard or participate, possibility of change in permanency plan, etc.)

Adequacy of Notice and Service of Process Issues

- Address identification and location of parents who have not waived right to notice
- Advise of responsibility to notify court of change of address
- Address whether caregivers have been notified of hearing, and if present, advise of opportunity to be heard

Troubleshooting and Negotiations Between Parties

- Motions
- Reports submitted timely (Should be provided by DSS at least 10 days prior to hearing)
- Rules

Testimony/evidentiary offerings

- Live testimony
- Proffer
- Stipulation
- Reports, including report by local Citizen's Review Board
- Introduction of written evidence (records)

Services update/Immediate Service/Case Plan

Key Decisions the Court Should Make:

- Determine whether the parties, former parents, former parents' attorneys, if applicable, caregivers, CASAs, and other interested persons have been notified and if so, whether they are present
- Determine the child's status as to placement, mental and physical health, education, behavior, etc.
- Determine extent of services provided to child and caregivers or potential placement options
- Determine whether the agency has made reasonable efforts to finalize the current permanency plan

Note: The presumption is that the permanency plan, at least at the initial guardianship review hearing, is adoption.

- Determine whether the agency has made reasonable efforts since the last adjudication of reasonable efforts to meet the needs of the child’s placement, mental and physical health, education, safety, connectedness to family, neighborhood and preparation for independence

Required considerations:

___ Extent to which the LDSS has complied with the law, regulations, state or federal court orders or stipulated agreements regarding provision of services;

___ Whether the LDSS has ensured that:

___ a caseworker is promptly assigned and actively responsible for the case at all times;

___ the caseworker’s identity has been promptly communicated to the court and the parties; and

___ the caseworker is knowledgeable about the case and has received all pertinent files and information timely.

- Determine future permanency plan

Key Components of the Court’s Order

- Specify permanency plan and reasons for particular plan. This should include timelines for achievement of the plan.
- If applicable, specify compelling reasons for choosing a permanency plan outside of adoption, and document why this plan is in the child’s best interest
- Specify whether the agency has made reasonable efforts to finalize the permanency plan and specify the specific efforts that were made or that should have been made
- Specify custody and placement
- Specify visitation with parents, siblings, and others, if applicable
- Set date and time of next hearing

Maryland Properly Conducted Hearings Checklists
Excerpts from the *Resource Guidelines*
National Council of Juvenile and Family Court Judges

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For information on the CFSR Process:

Administration for Children and Families
Administration on Children, Youth and Families
330 C Street, S.W.
Washington, D.C. 20447
www.acf.hhs.gov/programs/cb.

Best Practices Manual

